IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 27940 of 1997

Between:

Devisetty Subba Rao (Physically Handicapped) S/o.Ramaiah,
R/o.Dachepalli Mandal of Narayanapuram Village, Guntur District.

..... PETITIONER

AND

1 The District Collector, Ongole.
2 The District Collector, Guntur.
3 The District Treasury Officer, Ongle, Prakasam District.
4 The Mandal Revenue Officer, Prakasam District.
5 The Revenue Divl. Officer, Narsaraopet, Guntur District.
6 The District Treasury Officer, Guntur.
7 The Mandal Revenue Officer, Dachepalli Mandal.

(RR.6 and 7 were impleaded as per court order dt:13.4.98 in wpmp.7736/98)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Res.No.3 in stopping the petitioner Old age pension from the year 1979 by declaring the petitioner as "DEAD" as illegal, arbitrary and unconstitutional, violative of principles of natural justice and consequently direct the respondents to comply with or consider the application of the petitioner for continuation of payment of pension along with arrears of pension with immediate effect and pay the petitioner along with all arrears forthwith.

Counsel for the Petitioner: MR.S.PRADEEP KUMAR

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents.

The petitioner, by this writ petition, seeks to declare the action of the third respondent in stopping his old age pension from 1979 by declaring him dead, as illegal and arbitrary, and consequently to direct the respondents to consider his application for payment of pension with arrears.

The petitioner claims to be physically handicapped person. He states that he was getting old age pension of Rs.15/- per month by virtue of the order of the first respondent vide Procs.R.Dis.No.A3/4213/74, dated 28-7-1976, under A/c.No.1453. He states that he was paid the pension till 1979 and thereafter it was stopped and it seems, the account was closed for the reason that he was declared dead by the Revenue Divisional Officer, Markapur in L.Dis. No.1569/80, dated 22-9-1980. Aggrieved by the action of the respondents in stopping his old age pension, the petitioner filed this writ petition.

Though the writ petition was admitted on 01-01-1998, no counter-affidavit was filed till 07-04-2004. At the instance of this Court, the Revenue Divisional Officer, Markapur filed a counter-affidavit on behalf of the first respondent.

It is stated in the counter-affidavit that as per the rules governing the subject L.Dis., the files are destroyed after one year and they are not preserved and as such the proceedings in L.Dis.No.1569/80, dated
22-9-1980 is not available now. It is also stated that under what circumstances the petitioner was shown as dead in the records even though he is alive, is not known. It is further stated that the petitioner shifted his residence to Narayanpuram, Hamlet of Dachepally village and Mandal, Guntur District and as such he is no longer within

the territorial jurisdiction of either Markapur Revenue Division or Prakasam District and therefore, any payment of pension to the petitioner is to be made by the Divisional Office concerned in Guntur District.

The averment in the counter-affidavit that the petitioner shifted his residence to Narayanlpuram, Hamlet of Dachepally village and Mandal, Guntur District and so he is not within the territorial jurisdiction of either Markapur Revenue Division or Prakasam District and therefore he has to approach the Revenue Divisional Office concerned in Guntur district, shows that the Revenue Divisional Officer, Markapur wants to throw blame on the petitioner for non-payment of the pension all these years and tries to escape from the burden in paying the pension to the petitioner.

Be that as it may, when the matter came up today for hearing, the learned Government Pleader for Revenue produced the proceedings dated 31-3-2005 issued by the Mandal Parishad Development Officer, Dachepally granting physically handicapped pension of Rs.75/- per month to the petitioner from 01-02-2005. There upon, the learned counsel for the petitioner submitted that the petitioner is entitled to arrears of pension from the date of its stoppage till date. The learned Government Pleader submitted that steps are being taken to pay arrears of pension to the petitioner at the eligible rates.

In view of the above submission of the learned Government Pleader, the fifth respondent-Revenue Divisional Officer, Narasaraopet is directed to pay arrears of pension to the petitioner from the date of its stoppage till 31-1-2005 at the eligible rates from time to time, as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No costs.

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N.V. RAMANA, J

Date: 11-04-2005

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Monday, the Eleventh day of April, Two thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Ongole.
2 The District Collector, Guntur.
3 The District Treasury Officer, Ongle, Prakasam District.
4 The Mandal Revenue Officer, Prakasam District.
5 The Revenue Divl. Officer, Narsaraopet, Guntur District.
6 The District Treasury Officer, Guntur.
7 The Mandal Revenue Officer, Dachepalli Mandal.

8 Two Ccs. to the Government Pleader for Revenue, High Court Buildings, A.P., Hyderabad (OUT).

9 Two CD copies.

*Form-NIC-OGS/WP{**KMR**}*